

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JONATHAN DANIEL ROONEY,
Defendants.

8:20 CR 104

Trial Memorandum of the United States

Submitted by:

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Acting United States Attorney
for the District of Nebraska

and

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CHARGED OFFENSE

On October 23, 2020, a Second Superseding Indictment containing two counts was filed in the District of Nebraska charging Jonathan Daniel Rooney (hereinafter “Rooney”) in Count I with murder in the second degree in violation of Title 18, United States Code, Sections 1111 and 1153 and in Count II with tampering with documents or evidence in violation of Title 18, United States Code, Section 1512.

To prove Count I, the government must prove beyond a reasonable doubt the following elements: 1) Rooney unlawfully killed Kozee Decorah, 2) Rooney did so with malice aforethought, 3) the killing occurred within the exterior boundary of the Winnebago Indian Reservation, and 4) both the defendant and Kozee Decorah are Indian (Native American).

To prove Count II, the government must prove beyond a reasonable doubt the following elements: 1) Rooney altered, destroyed, mutilated, and concealed a record, document, or other object, 2) Rooney acted knowingly, 3) Rooney acted corruptly, and 4) Rooney acted with intent to impair the object’s integrity or availability for use in an official proceeding.

FACTS

The Court is likely very well acquainted with the facts of this case following its rulings on Rooney’s Motion to Suppress and Motion in *Limine*.

At approximately 7:55 PM on May 16, 2020, Kozee Decorah (hereinafter “Decorah”) called the Winnebago Police dispatcher and stated that she, Rooney, and her infant son had become stuck on a muddy road in a remote area of the Winnebago Indian Reservation. As a result of this call, Winnebago Conservation Officers Peter Snowball and Benjamin St. Cyr were dispatched to attempt to locate and assist Decorah. Officers Snowball and St. Cyr located the GMC Yukon that Decorah and Rooney had been travelling in, but they did not locate Rooney,

Decorah, or the infant. Officers Snowball and St. Cyr then traveled to Walthill, Nebraska to see if Decorah had made it home. Decorah was not located at her residence.

At approximately 11:48 PM, Officers Snowball and St. Cyr returned to the area of the stuck GMC Yukon when they noticed a fire. Officers Snowball and St. Cyr approached the fire which appeared to be burning in an outhouse next to a cabin. Inside the cabin, Officers Snowball located Rooney naked under a blanket with the infant. The Officers also noticed what appeared to be human remains in the fire.

Rooney and the infant were transported back to the Winnebago Police Department by Winnebago Firefighter Jonathan Grant.

Officers at the cabin also noticed what appeared to be droplets of blood on the floor and door of the cabin. On a gas grill next to where Rooney had been laying was a piece of wood, which also appeared to have blood on it. In the ash located where the fire had been burning, law enforcement recovered human remains which were ultimately determined to be Decorah's. Law enforcement also located a burned cell phone. Because of the significant burning of Decorah's body, Dr. Erin Linde could not determine Decorah's cause of death. The burned cell phone recovered from the area of the fire was not able to be extracted due to the damage it sustained in the fire.

Rooney is an enrolled member of the Winnebago Tribe of Nebraska. Decorah is an enrolled member of the Ho-Chunk Tribe of Wisconsin.

LAW AND SUPPORT

Motion In Limine – Decorah's Alleged History of Suicidal Ideation

The United States has been informed that Rooney intends to elicit testimony and evidence about Decorah's history of self-harm and alleged suicidal ideations. The United States

does not believe such evidence or testimony is admissible or relevant and will file a separate Motion in *Limine* seeking its preclusion.

LENGTH OF TRIAL

The United States anticipates that trial could be completed in seven days and should not take any longer than ten days. The United States anticipates calling approximately 30 witnesses, and a witness list has been filed contemporaneously with this brief.

EXHIBITS

The United States does not anticipate there being any significant evidentiary issues regarding its exhibits.

JURY INSTRUCTIONS

The United States has contemporaneously filed a set of proposed jury instructions.

Respectfully submitted,

UNITED STATES OF AMERICA,
Plaintiff

JAN W. SHARP
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District of Nebraska

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following: **Kelly M. Steenbock**, attorney for Mr. Rooney.

s/ Lecia Wright
Assistant U.S. Attorney